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### Probation FAQ

#### **Q:What is probation?**

**A:** Probation is the suspension of a jail sentence that allows a person convicted of a crime a chance to remain in the community, instead of going to jail. Probation requires that you follow certain court-ordered rules and conditions under the supervision of a probation officer. Typical conditions may include performing community service, meeting with your probation officer, refraining from using illegal drugs or excessive alcohol, avoiding certain people and places, and appearing in court during requested times.

#### **Q:How long is a person "on probation"?**

**A:** The amount of time you are on probation depends on the offense and laws of your state. Typically, probation lasts anywhere from one to three years, but can last longer and even up to life depending on the type of conviction, such as drug or sex offenses.

#### **Q:What are some examples of the terms or conditions of probation?**

**A:** A person who is placed on probation is usually required to report to a probation officer and follow a variety of conditions during the probation period. Specific conditions may include:

- Regularly meeting with your probation officer at set times;
- Appearing at any scheduled court appearances;
- Paying fines or restitutions (monies to victims);
- Avoiding certain people and places;
- Not traveling out of state without the permission of your probation officer;
- Obeying all laws, including minor laws such as jaywalking;
- Refraining from illegal drug use or excessive alcohol use; and/or
- Submitting to drug or alcohol testing.

Typically, the conditions imposed relate to the type of criminal offense. For example, a judge may require you to submit to periodic drug testing or attend a drug rehabilitation program for a drug-related offense. Similarly, a judge may require that you avoid specific people or group members for a gang-related or battery type of offense.

#### **Q:What happens if I violate my probation?**

**A:** **Probation violation** occurs when you break any of the rules or conditions set forth in the probation order at any time during the probation period. When a potential violation is discovered, your probation officer has the discretion to simply give you a warning, or require you to attend a probation violation hearing. If a judge determines that you violated your probation, you may face additional probation terms, heavy fines, a revoked probation, jail time, or more.

**Q: What are my legal rights at a revocation hearing?****A:** During a revocation hearing, the prosecuting attorney must show that you, more likely than not, violated a term or condition of your probation using a "preponderance of the evidence" standard. Generally, you have a right to learn of any new charges against you and to present evidence in court before a neutral judge that may support your case and/or refute the evidence brought against you. You may want to consult with an attorney or other legal professional regarding the rights available to you in your particular state.

#### **Q:What happens if my probation is revoked?**

**A:** A revoked probation does not automatically mean you will be sent to jail. A judge has a variety of options available during sentencing. For instance, upon a revoked probation, a judge may add an extra length to the probation, impose additional fines, or require you get counseling or attend other treatment programs. Even so, a judge may order you to serve a brief period of time in jail, or require you to serve the time allotted on your original sentence, depending on the

circumstances. Upon conviction of probation violation, you may request a bail hearing to allow you to remain free for a brief period of time before having to serve time in jail or before a judge makes his final determination.

**Q: Can I appeal a probation violation conviction?**

**A:** Yes. In most states, you can appeal a probation violation conviction to the state's next highest court. If the court finds that the lower court erred, or that there was insufficient evidence to support the conviction, you may have your probation violation dismissed.

**Q: What's the difference between probation and parole?**

**A:** Probation and parole sentencing options are similar, yet different in some ways. First, parole is a conditional release from prison that allows a prisoner to rejoin the community after serving all, or a part, of his or her prison term. Probation, on the other hand, is a sentencing order that allows a person convicted of a crime to remain out of jail altogether.

Secondly, in both cases, a person on probation or parole must follow certain court-ordered procedures and keep from getting into trouble with the law. Probation and parole violations both occur when a person either breaks the rules or fails to keep the terms of their probation or parole, including getting arrested for another offense.

Thirdly, probation and parole violations both carry significant consequences and penalties. When a probation or parole violation occurs, it may result in the person returning back to jail (if on parole), or entering jail (if on probation), depending on the particular circumstances of the case.

**Q: Can I ever shorten my time on probation?**

**A:** In most states, you may apply for an early release from probation, yet it is entirely discretionary (not mandatory) for a judge to allow. Typically, a deciding judge will require you to have served at least a third of your probation before eligibility for early release. In addition, a judge may require all of the conditions on your probation be met, for example, rehabilitation classes completed, community service performed, and monies paid. Also, certain offenses such as DUI, sex offenses, and jail felonies are not eligible for early release in most states.

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